



DEPARTMENT OF THE NAVY

BOARD FOR CORRECTION OF NAVAL RECORDS

2 NAVY ANNEX

WASHINGTON DC 20370-5100

TJR

Docket No: 6492-99

11 May 2000

From: Chairman, Board for Correction of Naval Records
To: Secretary of the Navy

Subj: REVIEW OF NAVAL OF RECORD [REDACTED]

Ref: (a) 10 U.S.C. 1552

Encl: (1) DD Form 149 with attachments
(2) Case summary
(3) Subject's naval record

1. Pursuant to the provisions of reference (a), Petitioner, a former enlisted member of the United States Navy, filed enclosure (1) with this Board requesting, in effect, that the characterization of his discharge be changed.

2. The Board, consisting of Mr. Bishop, Ms. Nofziger, and Mr. Pfeiffer, reviewed Petitioner's allegations of error and injustice on 11 April 2000 and, pursuant to its regulations, determined that the corrective action indicated below should be taken on the available evidence of record. Documentary material considered by the Board consisted of the enclosures, naval records, and applicable statutes, regulations, and policies.

3. The Board, having reviewed all the facts of record pertaining to Petitioner's allegations of error and injustice finds as follows:

a. Before applying to this Board, Petitioner exhausted all administrative remedies available under existing law and regulations within the Department of the Navy.

b. Although it appears that enclosure (1) was not filed in a timely manner, it is in the interest of justice to waive the statute of limitations and review the application on its merits.

c. Petitioner enlisted in the Navy on 24 March 1952 at the age of 18.

d. During his enlistment, Petitioner received captain's mast (CM) on three occasions for two incidents of disobedience and absence from his appointed place of duty. He also had three incidents of venereal infection.

e. Subsequently, Petitioner was processed for an administrative separation by reason of unfitness. On 24 March 1953 Petitioner was issued an undesirable discharge.

f. At the time of Petitioner's discharge, his conduct average of 3.5 would have been sufficient for a fully honorable characterization of service. However, since he was discharged by reason of unfitness, characterization of service was not determined by his marks.

CONCLUSION:

Upon review and consideration of all the evidence of record, the Board concludes that Petitioner's request warrants favorable action.

The Board notes Petitioner's misconduct and does not condone his infractions. However, the Board's finding is based on the minor nature of Petitioner's offenses. In this regard, the also Board notes that Petitioner's conduct average of 3.5 was sufficiently high to warrant a fully honorable characterization of service, which indicates that the command did not believe his offenses were particularly serious. Based on the foregoing, the Board concludes that no useful purpose is served by continuing to characterize Petitioner's service as having been under other than honorable conditions, and recharacterization to a general discharge is appropriate.

In view of the foregoing, the Board finds the existence of an injustice warranting the following corrective action.

RECOMMENDATION:

a. That Petitioner's naval record be corrected to show that he received a general discharge on 24 March 1953 vice the undesirable discharge actually issued on that date.

b. That a copy of this Report of Proceedings be filed in Petitioner's naval record.

c. That, upon request, the Veterans Administration be informed that Petitioner's application was received by the Board on 19 October 1999.

4. It is certified that a quorum was present at the Board's review and deliberations, and that the foregoing is a true and complete record of the Board's proceedings in the above entitled matter.

ROBERT D. ZSALMAN
Recorder



ALAN E. GOLDSMITH
Acting Recorder

5. Pursuant to the delegation of authority set out in Section 6(e) of the revised Procedures of the Board for Correction of Naval Records (32 Code of Federal Regulation, Section 723.6(e)) and having assured compliance with its provisions, it is hereby announced that the foregoing corrective action, taken under the authority of reference (a), has been approved by the Board on behalf of the Secretary of the Navy.



~~Re~~ W. DEAN PFEIFFER
Executive Director